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42. (Amended) A composition according to claim [38] 40 wherein said tumor suppressor protein is BRCA1.

43. (Amended) A composition according to claim [38] 40 wherein said tumor suppressor protein is BRCA2.

44. (Amended) A composition according to claim [38] 40 comprising:

- a) nucleic acid encoding a Rad51 protein;
- b) nucleic acid encoding a BRCA1 protein;
- c) nucleic acid encoding a BRCA2 protein; and
- d) nucleic acid encoding a p53 protein.

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#### Remarks

Claims 40-44 are pending. An appendix of the claims is attached for the Examiner's convenience.

Applicants' counsel confirm the election with traverse. Applicants further request that the Examiner reconsider the restriction. In particular, Applicants submit that it would not be an undue burden to consider Claim 45 along with Claims 40-44.

Applicants acknowledge the reminder regarding inventorship and canceled claims.

Formal drawings will be submitted when the application is allowed.

Applicants have amended the specification to include an abstract and have corrected typographical errors in the specification.

Regarding the Haaf reference on page 58, Applicants are in the process of investigating whether this reference is located in literature databases or whether the citation contains a typographical error.

#### The Rejections Under 35 U.S.C. Section 112, First Paragraph

Claims 40-44 are rejected under 35 U.S.C. Section 112, first paragraph, as "not described in the specification in such a way as to enable one skilled in the art.....to make and/or use the invention." More particularly, the Office Action states that "there would be